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1       A P P E A R A N C E S:

2               SETH B. KOSTO, ESQ. and STEPHEN E. FRANK, ESQ.,  
3       Assistant United States Attorneys, Office of the United States  
4       Attorney, 1 Courthouse Way, Room 9200, Boston, Massachusetts,  
5       02210, for the Plaintiff.

6               MAKSIM NEMTSEV, ESQ., 20 Park Plaza, Suite 1000,  
7       Boston, Massachusetts, 02116, for the Defendant.

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10       for the Defendant.

P R O C E E D I N G S

THE COURT: Let me just say one thing. I wanted to formally deny the motions. I didn't know if anyone was going to be briefing it over the weekend, and no one did. I assume that any briefing on it will come in, if necessary, at the end of -- so I hadn't formally denied. I wasn't sure whether people had asked to brief it afterwards, but I think I need to do that on the record.

MR. FERNICH: We'll see what happens.

09:03 THE COURT: All the motions and directed verdict denied.

THE CLERK: I'll put it in my notes.

THE CLERK: All rise for the jury.

(Jury enters the courtroom.)

THE COURT: Good morning.

THE JURY: Good morning.

THE COURT: Did anyone speak about the case, see anything in the press? Anyone try and communicate with you? Fine. I'm just going to let you go.

09:03 Maryellen will ask around 3:30, quarter of 4:00 if you want to go home. That's not meant to rush you. The room is yours for as long as you want. Between 1:00 and 2:00 is lunch, so I won't take questions during that time.

Don't forget, I sent you the new verdict form, the one that responded to your question, so make sure that you only use

1 that one. Thank you. All right, thank you.

2 (Jury excused.)

3 THE COURT: Just for the record, the new verdict form  
4 just has Mr. Klyushin's name on it, if you remember correctly.  
5 So between 1:00 and 2:00 is totally sacrosanct, so I won't take  
6 questions. Otherwise, I don't think there's anything we need  
7 to do.

8 (Discussion between the Court and Court Reporter.)

9 THE COURT: Have you sent them out to everyone? Are  
09:05 10 they okay to go in?

11 MR. FRANK: Yes.

12 MR. NEMTSEV: Yes.

13 THE COURT: And for that matter, I may need a copy of  
14 all the exhibits after. If I do, I've never gotten a full  
15 paper copy, so thank you.

16 (A recess was taken, 9:05 a.m.)

17 (Resumed, 3:50 p.m.)

18 THE COURT: Thank you. So the jury had a question. I  
19 think you had a chance to eyeball it. Essentially what it says  
03:50 20 is, "If venue was properly established for one of the charged  
21 counts, does that necessarily mean that venue is proper for the  
22 other counts?" And essentially what it does is quotes from the  
23 jury instructions on "Where an offense spans multiple  
24 jurisdictions or a crime consists of distinct parts which have  
25 different localities, the whole may be tried where any part can

1 be proved to have been done." That's a quote, I think, from  
2 the jury instructions, or roughly a quote. I think the answer  
3 is quite simple. I think the answer is, they have to go count  
4 by count.

5 MR. FERNICH: Yes, on Page 38 of the instructions that  
6 Lee handed out this morning, Lines 23 through 25 say, "The  
7 government must prove for each offense," so each one of those  
8 counts we just went through, "that venue is proper in the  
9 District of Massachusetts," and we would propose rereading  
03:51 10 those lines.

11 THE COURT: What I propose we do is -- it's ten of  
12 4:00, they're probably ready to go home -- I could either tell  
13 them that when they come out or just write that on here. I  
14 propose I just say right now, "You have to decide it count by  
15 count."

16 MR. FRANK: That's fine with us, Judge. We would ask  
17 that if they want to stay, that they be permitted to stay.

18 THE COURT: Of course, if they want to. We haven't  
19 heard that either. Okay, so I'm just going to say --

03:52 20 THE CLERK: Do you want me to bring them out?

21 MR. KOSTO: Your Honor, you could refer them to the  
22 last three lines that Mr. Fernich just read by page and line  
23 number as well because I believe they have a copy of it.

24 THE COURT: Do you have the transcript?

25 THE CLERK: I have this.

1 THE COURT: So, I'm sorry, Mr. Fernich, what page was  
2 that?

3 MR. FERNICH: It was Page 38, the last three lines on  
4 the page, Lines 23 through 25.

5 THE COURT: So I'm going to say, "You have to decide  
6 venue count by count," and then say "See Page 38 --"

7 MR. KOSTO: Lines 23 through 25.

8 (Pause.)

9 THE COURT: "You have to decide venue count by count.  
03:54 10 See Page 38, Lines 23 through 25," with my name and date and  
11 3:52 p.m. So I will have Maryellen bring it back. Please stay  
12 because I will find out what they want to do now. I'll tell  
13 her to ask if they want to go home.

14 THE CLERK: Yes, I will do that.

15 MR. FERNICH: Thank you, your Honor.

16 MR. KOSTO: They're right there.

17 THE CLERK: They want to go home.

18 (Discussion between the Court and Clerk.)

19 THE COURT: Okay, we'll just take a two-minute recess.  
03:55 20 I think they want to figure out if they're going or not.

21 THE CLERK: They're in the hallway, so --

22 (Discussion off the record.)

23 (A recess was taken, 3:55 p.m.)

24 (Resumed, 4:00 p.m.)

25 THE CLERK: All rise for the jury.

1 (Jury enters the courtroom.)

2 THE COURT: All right, please don't be seated. You've  
3 had a long day. I sent you back an answer on that note, and I  
4 will see you tomorrow morning at 9:00 o'clock. Hopefully  
5 tomorrow won't be as exciting; we won't have a tour of the  
6 courthouse outside. You know, that was a real fire drill. It  
7 wasn't like a false alarm or anything. But we're all safe now,  
8 so see you tomorrow. Thank you. Please don't talk about the  
9 case with anyone. Thank you.

04:01 10 (Jury excused.)

11 THE COURT: See you tomorrow morning.

12 MR. KOSTO: Goodnight, your Honor.

13 THE COURT: Here's the note, if anyone wants to take a  
14 look at it. Otherwise, I'll see you at 9:00 o'clock.

15 (Adjourned, 4:02 p.m.)

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C E R T I F I C A T E

UNITED STATES DISTRICT COURT )  
DISTRICT OF MASSACHUSETTS ) ss.  
CITY OF BOSTON )

I, Lee A. Marzilli, Official Federal Court Reporter,  
do hereby certify that the foregoing transcript, Pages 11-1  
through 11-7 inclusive, was recorded by me stenographically at  
the time and place aforesaid in Criminal No. 21-10104-PBS,  
United States of America v. Vladislav Klyushin, and thereafter  
by me reduced to typewriting and is a true and accurate record  
of the proceedings.

Dated this 15th day of February, 2023.

/s/ Lee A. Marzilli

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LEE A. MARZILLI, CRR  
OFFICIAL COURT REPORTER